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DIVISION OF PROFESSIONAL REGULATION

PUBLIC MEETING MINUTES:	BOARD OF FUNERAL SERVICES
MEETING DATE AND TIME:	Tuesday, July 30, 2013, 10:00 a.m.
PLACE:	861 Silver Lake Boulevard, Dover, Delaware Conference Room B , second floor of the Cannon Building
MINUTES APPROVED:	September 24, 2013

MEETING MINUTES

MEMBERS PRESENT

Chad Chandler, Professional Member, President
Bill Torbert, Professional Member
S. Keith Parsell, Professional Member
Danna Levy, Public Member (arrived at 10:08 a.m.)
Mary Byrd, Public Member

MEMBERS ABSENT

Harry Fletcher, Professional Member, Secretary
Marceline Knox, Public Member

DIVISION STAFF/DEPUTY ATTORNEY GENERAL

Kevin Maloney, Deputy Attorney General
Kay Warren, Deputy Director
Pamela Zickafoose, Executive Director
Sheryl Paquette, Board Liaison

OTHERS PRESENT

Sarah Wooten, Sunset Committee (Governors Office)
LaTonya Davis
Robert Miller

CALL TO ORDER

Mr. Chandler called the meeting to order at 10:05 a.m.

SUNSET REVIEW PRESENTATION

Ms. Sarah Wooten handed the Board a tentative timeline for the Sunset Review process. She explained that Delaware Sunset Law provides for the periodic legislative review of state agency Boards and Commissions. Ms. Wooten gave an overview of the Sunset Review process and the timeline by which it is achieved.

Ms. Warren explained how the Division will be supporting the Board during this process. She said that she would be getting a questionnaire together for the Board, and explained that some of questions in the past have asked about the budget, how many complaints have been filed, disciplinary actions taken by the Board, licensure fees, number of applicants in the past three years, numbers of applications denied for licensure, all accomplishments of the Board, etc. Ms. Warren said she will put all this information together, and include the rules and regulations for this Board, as well as any legislation that has been passed. She said the Funeral

Board was last reviewed in 1998. She said the Division has initiated legislation on behalf of all the Boards and Commissions which will also be indicated as an accomplishment for this Board.

Ms. Warren said she will work with the Board and the Deputy Attorney General to determine some of the following:

- Items the Board would like to see changed statutorily
- Rules and Regulation changes
- Challenges currently facing the Funeral industry
- Accomplishments
- Opportunities for improvement
- Legislative initiatives

Ms. Warren said she and Ms. Wooten will attend the hearings along with Board members. She said she needs a spokesperson, usually the Board President, to attend with Mr. James Collins and her to answer any questions from the Joint Sunset Committee members. She said there may be outside input as well; other stakeholders can attend the hearings and give testimony and say what they want to have done that will improve the statute. She said the process is a way to modernize the statute and to get things up to standard with what other states might be doing, including the surrounding states and across the country.

Ms. Warren asked Ms. Wooten when the questionnaire would become a public document. Ms. Wooten said the questionnaire isn't published online; however, it would be available if someone needed to see it. She said the draft report would be available towards the end of the year or early next year, and reminded the Board they will see it in advance before publishing. Ms. Wooten said the public comment process starts as soon as the process begins and said she has already received some comments. Ms. Byrd asked if the Board should be doing something now or just waiting for the next step. Ms. Warren said the dialogue has begun and the Board should keep this review on their meeting agendas for ongoing discussion. She said she will develop the questionnaire for the Board to review and discuss at their next meeting. She asked the Deputy Attorney General to review the statute and Rules and Regulations as well.

Ms. Byrd asked if the Board could see the results from the Sunset review of the Board back in 1998. She said the current Board members were not around then and it may be good to see what happened during that review. Ms. Wooten said she could pull that information from archives and send to Ms. Warren.

Mr. Parsell asked if each Board member has to do their own questionnaire and was told 'no' that the Board would do the questionnaire as a whole. He asked when the projected timeframe would be for all the work to get done before it becomes a legislative act. Ms. Wooten said generally a bill would be drafted in May then hopefully get through the process in June. She said because this is the second session of the general assembly the sooner that all gets done the better. She said she would like to see a bill introduced in May, if possible. Mr. Maloney asked when the Board will be able to see the public comments. Ms. Wooten said she will send all public comments she has received to the Board prior to their September meeting. Ms. Warren asked Mr. Chandler if he would be the point of contact and he said 'yes'.

REVIEW AND APPROVAL OF MINUTES

The Board reviewed the minutes of the May 28, 2013 meeting. Mr. Chandler requested a couple changes be made to the May minutes. Under 'Proposed Legislation' he asked that the wording be changed and a correction made to the word 'volt' to be changed to 'vault'. He also asked that under 'Adjournment' the time be changed from 'am' to 'pm'. Mr. Parsell made a motion, seconded by Ms. Levy, to approve the minutes as corrected. The motion carried unanimously.

UNFINISHED BUSINESS

None

Ms. Byrd reminded the Board that at the last meeting they decided Mr. Bennie Smith should attend the next three Board meetings. Since Ms. Smith was not in attendance at this meeting, she said either he was not notified of the order or he chose not to attend. She said the Board needs a process by which they keep track of notifications that are sent out. Mr. Chandler said Ms. Paquette can check to see if Mr. Smith received a certified letter of notification. Dr. Zickafoose said she checked with the legal department and Mr. Smith's order had not been sent to him yet. Mr. Chandler said it was only a week ago that he was asked if his electronic signature could be used for the order, and given that there have been staff changes, it is possible the order has not been sent yet. Mr. Maloney said he will resend the order to Ms. Paquette and Ms. Paquette said she'll make sure it is sent out immediately. She will notify Mr. Chandler of the mailing date.

NEW BUSINESS

RATIFICATION OF LICENSURE

Scott Clemens – Funeral Resident Intern

Jebb Carrier – Funeral Resident Intern

Shelli Pennick – Funeral Director Limited

Mr. Parsell made a motion, seconded by Ms. Byrd, to ratify the above licenses as specified. The motion carried unanimously.

REVIEW OF RESIDENT INTERN REPORTS

LaTanya Davis

Ms. Byrd made a motion, seconded by Ms. Levy, to accept Ms. Davis' 4th Quarterly Progress Report. The motion carried unanimously. Mr. Chandler congratulated her.

REVIEW OF APPLICATIONS FOR LICENSURE

LaTanya Davis - (Funeral Director by Resident Intern)

After Board review, Ms. Byrd made a motion, seconded by Mr. Torbert, to approve the licensure application request of Ms. Davis. The motion passed unanimously. Ms. Davis asked if the Board has to vote for her to sit for her state exam. Mr. Torbert made a motion, seconded by Mr. Parsell, that Ms. Davis can sit for the exam and upon passing it can be licensed.

Miller Funeral Services - (Funeral Establishment Permit)

Mr. Miller asked the Board why his application was denied previously. Mr. Chandler said it appeared that Mr. Miller worked out of his home and asked him directly if he did. Mr. Miller said he was not working out of his home, but rather was working out of Melvin's Funeral Home in Harrington, Delaware. He said he uses his home address for mail only. Mr. Chandler pointed out that Mr. Miller's establishment license expired in 2004 and he didn't get a new license since that time for his establishment. Mr. Miller said he called the Division regarding his location change and was told he didn't need one because he was working out of an establishment that had a current license. Mr. Chandler told him he needs his own establishment permit. Ms. Byrd said the Board needs to see something from Mr. Melvin stating that he approves Mr. Miller to work at his establishment. Ms. Byrd asked him if he had personnel working for him and Mr. Miller said he has. Mr. Chandler said the legal location would be the Harrington address so all paperwork, advertising, etc. needs to have this address and phone number; not Mr. Miller's home address or any PO Box. Mr. Torbert said he believed for Mr. Miller to establish his own business in the same building, that he needs to provide all his documentation for the City of Harrington and the State of Delaware with business permits stating what his business address will be with the name of his own business. Mr. Chandler said the Board will need him to reapply for his business establishment permit and include a letter stating permission from Mr. Melvin to use his establishment. Mr. Torbert suggested Mr. Miller ask Mr. Melvin if he needs licensure in the city of Harrington. He said if he finds that he does he will need to get that done before applying with the Board again. Mr. Torbert said Mr. Miller will have to take care of that documentation before he can reapply to the Board. Mr. Maloney said Mr. Miller may want to look at section 3117(a) in the Statute with regard to his business license. Mr. Maloney said the Board can table this issue upon receipt of additional information from Mr. Miller. Mr. Chandler asked Mr. Miller if he understood what the Board was requesting of him and he said he understood. Ms. Byrd made a motion, seconded by Ms. Levy, to table this until the next meeting. The motion was unanimously approved. Ms. Warren asked the Board if there could be a contingent motion for Mr. Miller since they don't

meet until September, which would allow for approval of Mr. Miller's permit once he gets all his requested documentation to the Board. Mr. Torbert made a motion, seconded by Ms. Byrd, to allow Mr. Parsell to grant approval for Mr. Miller's permit once all documents as listed in Title 24 §3117(a), in addition to a letter of approval from Mr. Melvin, have been submitted to the Board. The motion carried unanimously.

REVIEW OF APPLICATIONS FOR CONTINUING EDUCATION APPROVAL

Education Workers Group AKA FuneralContinuingeducation.com

Funeral Ethics & Best Practices- Online Course, Requesting 3 CEUs

Mr. Parsell reviewed the continuing education application from Education Workers Group.

National Funeral Directors & Morticians Association, Inc.

NFDMA & LFDMA Public Day- 8/4/12, Requesting 2 CEUs

View from the Roof: Lessons in Life and Business, 8/5/12, Requesting 1.5 CEUs

Capitalism for Caregivers Owners Only Track, 8/5/12, Requesting 1 CEU

New Member & Student Orientation, 8/5/12, Requesting 1 CEU

OSHA Review, 8/5/12, Requesting 1 CEU

It's a Family Affair: NFDMA Healthcare, 8/5/12, Requesting 3 CEUs

Owner's Round Table: Best Kept Secrets for Funeral Directors' Success, 8/5/12, Requesting 1 CEU

Exhibit Hall Education & History Museum, 8/6 & 7/12, Requesting 2 CEUs

Embalming the Radiology Case Part II, 8/7/12, Requesting 2 CEUs

New Age Marketing: How to Compete with Goliath on a David Budget!, 8/7/12, Requesting 1 CEU

Funeral Planning and Wealth Management, 8/7/12, Requesting 1 CEU

Physiological Effects of Long Term Disease, 8/7/12, Requesting 1 CEU

The Unsteady March of Time: The Funeral Profession-Past, Present and Future, 8/7/12, Requesting 1 CEU

Mr. Parsell reviewed the continuing education application the National Funeral Directors & Morticians Association, Inc. Mr. Parsell made a motion, seconded by Ms. Byrd, to approve all the above listed courses as presented. The motion passed unanimously.

Bill Torbert - Mr. Torbert submitted the Maryland State FDA Convention request for CEUs. He said he attended the convention as well.

Maryland State FDA Convention, 6/24-27/13, Requesting 10.25 CEUs

Mr. Chandler reviewed the continuing education application for the Maryland State FDA Convention. Ms. Byrd made a motion, seconded by Ms. Levy, to approve this course as presented. By majority vote, the motion passed, with Mr. Torbert abstaining.

Selected Independent Funeral Homes

SIFH Annual Meeting, 10/16-19/13, Requesting 10 CEUs

Mr. Chandler reviewed the continuing education application for the Selected Independent Funeral Homes. Mr. Parsell made a motion, seconded by Ms. Byrd, to approve this course as presented. The motion passed unanimously.

Matthews International

Moving from Grieving to Remembrance, September 2013, Requesting 1 CEU

10 Arrangement Steps Essential for Families Selecting Cremation, September 2013, Requesting 1 CEU

The Beauty, Characteristics and Value of American Woods Used in the Art of Casket Construction, September 2013, Requesting 1 CEU

The Beauty, Characteristics and Value of Enduring Metals Used in the Art of Casket Assembly, September 2013, Requesting 1 CEU

Mr. Chandler said the courses submitted by Matthews International have already been approved by the APFSP. Mr. Maloney said they do not need to be submitted to the Board for approval; therefore, no motion was made.

COMPLAINT UPDATES AND CONSENT AGREEMENTS

COMPLAINT UPDATES

Complaint 27-06-12 (FTC) Closed by AG's office

Complaint 27-07-12 (FTC) Closed by AG's office

Complaint 27-11-12 (FTC) Closed by AG's office

Complaint 27-12-12 (FTC) Closed by AG's office

Complaint 27-13-12 (FTC) Closed by AG's office

Complaint 27-14-12 (FTC) Closed by AG's office

Mr. Chandler reported that the AG's office has closed the above complaints.

Complaint 27-05-12 (Chandler) Closed by Investigator

Mr. Chandler reported that Complaint 27-05-12 has been closed by an Investigator.

CONSENT AGREEMENTS

None

HEARING OFFICER RECOMMENDATIONS

None

CORRESPONDENCE

Free Standing Crematories

Ms. Paquette said The Conference submitted a question to the Division for a response by the Board regarding free-standing crematories. The Board was asked how their jurisdiction handles a free-standing crematory (defined as 'a crematory not associated with a funeral home – offering services directly to the public without involvement of a funeral home or funeral director'). Mr. Maloney stated they need to be licensed in Delaware. Mr. Chandler disagreed and gave an example of a cemetery that is a non-funeral home crematory. Mr. Torbert said there is a crematory in Sussex County that is not open to the public and is only used by Funeral Directors now. Mr. Parsell agreed and said it is a grey area that needs to be discussed during the sunset review. Mr. Torbert said this is regulated by the Department of Natural Resources and Environmental Control (DNREC). He said free-standing crematories should not be open to the public. They must go through a licensed Funeral Director or licensed funeral home to be able to get a human cremation form.

International Conference of Funeral Service Examining Boards 2014 Fee Charge

Documentation regarding this fee change could not be found at the meeting; therefore, this will be added to September's meeting agenda for review.

OTHER BUSINESS BEFORE THE BOARD (for discussion only)

Death Certificates and Autopsies – Transportation Issue for out-of-state cases, exemption

After two recent situations involving "transportation of a body" within the state, the question was posed to the Board if the person 'transporting' would need a limited license, or would they fall under the 'transportation' exception of '§3118 Exemptions' under the law. Mr. Maloney said this situation falls under the law under section §3120 Interstate transportation of human remains. He asked the Board to give some thought as to what the overall purpose of this section is. The Board decided to discuss this further at the next meeting.

Legislation, House Bill 188

Ms. Wooten said this bill was assigned to a committee but it didn't make it through the process. She said it's still a live bill and be presented again this year.

PUBLIC COMMENT

Dr. Zickafoose apologized to the Board for some of the confusion at the meeting, due to the recent staff changes.

Mr. Parsell asked when it is appropriate for a Board member to get involved if they feel there is a violation occurring that perhaps the public is not aware of. Ms. Warren said Board members can file complaints just like anyone else. She said the complaint would go through the investigative process. She reminded the Board that they cannot discuss these issues with each other because it will taint the process. Mr. Maloney added that the complaint process starts with the Division of Professional Regulations then goes to the Attorney General's office.

Ms. Warren talked about SB90. She said SB90 passed the General Assembly and allows for the Division's Investigators to fine any unlicensed practices a \$250 penalty. She said anyone receiving the penalty would be able to appeal within a certain timeframe with the Hearing Officers. Mr. Parsell asked if there was a current process for someone that does not have an establishment license for many years but has been practicing anyway. Dr. Zickafoose said he could file a complaint. Ms. Warren said the other part of the legislation states that a person cannot get a license until they pay the fine that was incurred. Ms. Wooten asked if citations for unlicensed practice be available to the public at large. She said this issue may be something the Board looks at right now. Dr. Zickafoose said a citation listing could be established to see if there's a pattern of violations.

NEXT MEETING

The next Board meeting will be held on Tuesday, November 26, 2013, at 10:00 a.m. in Conference Room B located on the second floor of the Cannon Building at 861 Silver Lake Boulevard, Dover, Delaware.

ADJOURNMENT

There being no further business, Ms. Byrd made a motion, seconded by Ms. Levy, to adjourn the meeting at 11:33 a.m. The motion to adjourn carried unanimously.

Respectfully submitted,



Sheryl Paquette
Board Liaison

The notes of this meeting are not intended to be a verbatim record of the topics that were presented or discussed. They are for the use of the Board members and the public in supplementing their personal notes and recall for presentations.